NUMBER: EL 831819976 US

DATE OF DEPOSIT: January 2 2004

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to: Commissioner for Patents, P.O. Box 1450

10/767605 10/767605 012904

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Mark J. Rupar
William P. Donovan
Yuping Tan
Annette C. Slaney

Serial No.:

Filed: January 29, 2004

For: PLANTS TOXIC TO COLEOPTERAN INSECTS § AND CTENOCEPHALIDES SPP. (AMENDED). §

Group Art Unit:

Examiner:

Atty. Dkt. No.: **MECO:017--3**

11792.0017.DVUS03

REQUEST FOR FILING DIVISIONAL APPLICATION UNDER 37 C.F.R. § 1.53(b)

This is a request for filing a divisional application under Rule 53(b) (37 C.F.R. § 1.53(b)) of co-pending prior application U.S. Serial No. 10/386,972, filed March 12, 2003, entitled "Bacillus thuringiensis CryET29 Compositions Toxic to Coleopteran Insects and Ctenocephalides Spp."

Enclosed is a copy of the prior application Serial No. 10/386,972 as originally filed, including specification (90 pages), claims (12 pages), original drawings (2 pages), abstract (1 page), and declaration. The undersigned hereby verifies to the best of her knowledge that the attached papers are a true copy of the prior application as originally filed and identified above, that no amendments (if any)

referred to in the declaration filed to complete the prior application introduced new matter therein, and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

1. 4

The inventorship is the same as prior Application Serial No. 10/386,972.

2. The Commissioner is authorized to charge the filing fee of \$770.00 to Deposit

Account No. 01-2508/11792.0017.DVUS03 to cover the filing fee as calculated upon entry of the Preliminary Amendment referred to in Item No. 6 below.

FOR	NUMBER FILED	NUMBER EXTRA		RATE	FEE
Basic Fee					\$770.00
Total Claims	5 - 20 =	0	X	\$18.00 =	\$0.00
Independent Claims	1 - 3 =	. 0	X	\$86.00 =	\$0.00
	ent Claim(s)			\$290.00	\$-000
		TOTAL FILIN	NG FEE	S:	\$770.00

- 3. The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 to 1.21 which may be required for any reason relating to this application, or credit any overpayment to Deposit Account No. 01-2508/11792.0017.DVUS03.
- 4. The prior application is presently assigned to Monsanto Technology LLC.
- 5. Enclosed is a copy of the current Power of Attorney executed on behalf of Monsanto Technology LLC.

- 8. Enclosed is a preliminary amendment.
- 7. An Information Disclosure Statement (IDS) is enclosed.

Form PTO-1449.

- 8. Enclosed is a substitute sequence listing and the computer readable form which have been corrected and updated to Patent In Version 3.2, from the copending application, Serial No. 10/386,972, filed July 6, 2000. Statements required under 37 C.F.R. § 1.821 (f) and (g) are also included.
- 9. Enclosed are formal drawing sheets (Figs. 1A-B).
- 10. Address all future communications to:

Ms. Patricia A. Kammerer Howrey Simon Arnold & White, LLP 750 Bering Drive Houston, Texas 77057-2198 (713) 787-1400

2 11. Return Receipt Postcard (specifically itemized).

Respectfully submitted,

Amy G. Klann Reg. No. 48,155

AGENT FOR ASSIGNEE

MONSANTO TECHNOLOGY LLC

HOWREY SIMON ARNOLD & WHITE, LLP 750 Bering Drive Houston, Texas 77057-2198 (713) 787-1400

Date: January 29, 2004

CERTIFICATE OF EXPRESS MAILING

NUMBER: EL 831819976 US

DATE OF DEPOSIT: January 27 2004

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Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

§

Group Art Unit:

Atty. Dkt. No.: MECO:017--3

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Examiner:

In re Application of:

Mark J. Rupar

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For: PLANTS TOXIC TO COLEOPTERAN INSECTS §

AND CTENOCEPHALIDES SPP. (AMENDED)

MAIL STOP PATENT APPLICATION

Commissioner for Patents

P.O. Box 1450

ALEXANDRIA, VIRGINIA 22313-1450

SUBMISSION OF FORMAL DRAWINGS

Sir:

In connection with filing a divisional application under 37 C.F.R. § 1.53(b) of co-pending prior application U.S. Serial No. **10/386,972**, filed March 12, 2003, Applicants hereby submit the formal drawings (Figures 1A-B) for the above-referenced application.

Respectfully submitted.

Amy G. Klann Reg. No. 48,155

Agent for Assignee

MONSANTO TECHNOLOGY LLC

Howrey Simon Arnold & White, LLP

750 Bering Drive

Houston, Texas 77057-2198 Telephone: (713) 787-1400

Date: January 29, 2004